novel and commendable show of consistency between the cases and the statements they are connected with. "This book doubtless contains everything that the practising lawyer needs on this subject, as it combines the information furnished by both a digest and a text-book of bankruptcy law and practice."

E. H. B.

NOTES ON RECENT LEADING ARTICLES IN LEGAL PERIODICALS.

ALBANY LAW JOURNAL.—May.

Alton Brooks Parker. Charles J. Hailes. If those who are inclined to accept the newspaper allegations that Judge Parker's career has been obscure, and that the reasons for his being proposed as a candidate by one of the two powerful political parties of the country are still more obscure, will read this article, they will find that not only are the allegations untrue, but they will also learn that if Judge Parker has not occupied a more conspicuous position before the public it is wholly owing to his own choice.

He is also shown to have what we have come to consider the normal attributes for the greatest of all executive offices; he was born on a farm, taught school as a youth, and had his living to make for himself in early manhood. That he was successful is shown by the fact that he was but thirty-three years of age when he became justice of the Supreme Court. The article is clear, concise, and leaves a vivid impression of the character of its subject.

CANADIAN LAW TIMES.—May.

The Northern Securities Decision and the Sherman Anti-Trust Act. George F. Canfield. We have here another article attacking this now famous decision. After a discussion of the points in the case Mr. Canfield states, with what he considers "reasonable certainty," that "The Northern Securities decision is wrong on principle and indefensible; the United States Supreme Court as now constituted will not carry this decision to its logical consequences; the primary practical result will be that the Northern Securities Company will be suppressed, but the concentration of power and suppression of competition will continue to exist; that the Pennsylvania Railroad Company, New York Central, and other large railways are safe from attack by the United States Government under the existing Anti-trust Act; that the large industrial combinations, Standard Oil, United States Steel, etc., are also safe in the same way; that joint traffic associations are illegal, even though they provide simply for the maintenance of reasonable rates, because the union of railway companies is supposed to constitute a monopoly; that joint selling agencies for maintaining prices among competing manufacturers or trading companies are legal if not too big.

Mr. Canfield evidently objects to more than this single decision; he objects to the whole trend of the decisions. It is plain that he sees no wisdom in any of the reasons given to sustain the decision or in any of the arguments on the other side. He suppresses his impatience with them, but the suppression is obviously difficult. The line of attack is new, and the defenders of the decision may find it worth while to answer it.

A Brief History of the Parol Evidence Rule. John C. Wigmore. This very interesting article traces the evolution of the written document from its phase as the mere witness to the transaction whose terms were liable to be explained and modified by the witnesses who were called in to testify through the period when the seal rendered the document indisputable, at least as to those sealing it, to the doctrine of the present day, when the theory that the written instrument cannot be disputed by the parties as to the terms of the transaction is so strongly intrenched. A consideration of the law of evidence, and also of the history of the trial by jury, leads to the reflection that it is possible that the law has sometimes shown false growths and that the lines of true reform lie along a thorough study of these growths and an examination into those causes by which it was deflected from the true course.

GREEN BAG.—May.

The Conflicting Opinions in the Merger Case. Bruce Wyman. Another article upon the Northern Securities Case could hardly be deemed a public necessity, yet Mr. Wyman, by giving his article a different form and by the summing up at the end, does succeed in differentiating it slightly from those which have preceded it. He concludes that this decision shows: that anti-trust legislation is constitutional, that Federal legislation may interfere in all business operations which affect interstate commerce in any direct way, and that all combinations of every sort are within the prohibition. He also notes the opinion of the five justices that the prohibition may extend only to *unreasonable* restraint of trade.

Some Questions of International Law Arising from the Russo-Japanese War. I. Failure to declare war and alleged violation of Korean Neutrality. Amos S. Hershey. Every war of any proportions causes a readjustment of the formerly accepted rules which guide the nations in their conduct towards one another. The present war between Russia and Japan promises to be more than usually fruitful in this way. Mr. Hershey contends that Japan was quite within her rights in making war without waiting for a formal declaration, and that in violating the neutrality rights of Korea she was simply acting under the pressure of necessity and therefore was justified. He does not go far enough back into history to take into consideration the fact that the previous attitude of Japan towards Korea was the cause of the necessity which compelled her to take such action. The parallel between our attitude towards the South American countries does not seem well chosen, as we have not as yet attempted to subjugate any of them. The development of questions in international law should be fostered by treating such questions fairly and impartially; any other treatment hinders and greatly hurts the cause all nations have at heart. We have a right to ask that all who undertake so grave a task should refrain from contending for one or the other combatant and should endeavor to use the heat engendered by the contest to forge new bonds of union and agreement for the future betterment of a law-abiding world.

HARVARD LAW REVIEW.—May.

The History of the Hearsay Rule. John H. Wigmore. Mr. Wigmore's articles on Evidence are all of great interest and value. He gives us here a very clear and detailed account of the growth of the Hearsay Rule.

Accord and Satisfaction. Samuel Williston. Mr. Williston takes up the unsettled points of the subject and examines them with his usual

care and insight. Some of the points are: What effect does the unexecuted accord have upon the previous cause of actions; the difficulties presented by a contract under seal and a debt of record; the requirements for a legally effective satisfaction, and the question whether accord and satisfaction entered into by the creditor with a person other than the debtor discharges the debt.

The Merger Case. F. C. G. The editors of the *Harvard Law Review,* not apparently satisfied with the volume of periodical literature already published on this subject, are said to have had this article prepared at their request. We are given "three Jerseymen, called Morgan, Hill, and Lamont," who carry chickens and eggs to market in New York. They agree to form a corporation, turning in as their only capital their horses and carts, and paying a few dollars for their charter. We are asked to consider their case as absolutely parallel with that of the Northern Securities Company, and to recognize the fallacy of the decision of the Supreme Court after having thus been shown the absurd simplicity of the question. We are also given a new phase, "junction of interest," and by the use of the phrase we escape from using the old terms, "restraint of trade," "monopolies," and others of that sort, which the law has looked upon suspiciously. We also see the Supreme Court from the point of view of still another writer. The slight respect that periodical writers (other than biographers) had allowed us to retain for that tribunal seems destined to be absolutely destroyed by the writers upon this decision.

LAW MAGAZINE AND REVIEW.—May.

The Practical Working of the Education Act. Rev. H. W. P. Stevens. This is not a broad survey of the act as a whole, but an examination into the practical working of some of the details which were overlooked or not thought of importance at the time the bill was passed. The great interest aroused by the act, the resistance occasioned by the attempt to enforce its provisions, the excitement and deep feeling caused by its passage, are not touched upon here. The writer believes that, whatever changes may be made in the act, the County Councils will not consent to transfer the power given them by this bill to any other body, and that the bill, by arousing interest in public education, will secure a "great intellectual advance in the mental level of the masses of the people." This latter opinion throws a curious light upon the present "mental level" of the masses of the English people of the present day.

Legal Education in Italy. H. St. John Mildmay. The Italian student has twenty universities in which he may pursue the study of the law; sixteen are state universities, four are without state support. Lists are here given of the subjects covered by the courses in these colleges, the course being four years and the degree being "Dottore in Legge." The system presented is not ideal, but its chief faults seem to be the failure to require examinations at the end of each academic year, and the method of expounding the civil code, which method leaves many important branches of the law untouched by the student when he graduates. The fees are very small, and exemption may be obtained even from these by diligence and good conduct.

MICHIGAN LAW REVIEW.—May.

English History and the Study of the English Law. Arthur Lyon Cross. It may appear strange that a plea for the study of English history as a part of the study of the English law should seem necessary, but it does appear necessary to Mr. Cross, and he very eloquently pleads

for the recognition of the fact that a thorough knowledge of English history is a prerequisite to a thorough knowledge of the English law. Incidentally he mentions the need for a good edition of the Year Books, and the services of John Bryne & Co. in their reprints of Glanville, Britton, and Horne.

One Phase of Federal Power under the Commerce Clause of the Constitution. John C. Donnelly. This article discusses the property right of access from the land to the navigable water, and the right of access to the upland from the water. The doctrine of the case of *Wheeler* v. *Scranton* is especially discussed and differed from in that it infringes upon the rights of the riparian owner, and carries the doctrine of the Federal power to an unjust and unwarrantable extent. The article is able and of interest.

YALE LAW JOURNAL.—May 5.

Judicial Constitutional Amendment as Illustrated by the Devolution of the Institution of the Jury from a Fundamental Right to a Mere Method of Procedure. Federick R. Coudert. This very vigorous and exceedingly interesting paper cannot be passed over by any person interested in the constitutional development of our institutions. No analysis can do it justice. To copy the last paragraphs may be, perhaps, to give some slight insight into the spirit which animates Mr. Coudert's paper:

"It seems to me that the danger in America in our day comes more largely from the constantly growing and all-invading activity of government than from any other source. While the Supreme Court cannot, of course, remain oblivious of or be uninfluenced by this tremendous drift of opinion, it should be careful not to hasten it or go in advance of it. Timely restraint may cause the reconsideration of various half-understood policies and keep our government in the line of evolution rather than in that of revolution.

"Some of our old institutions may have become obsolete, but they cost many years of effort and much shedding of blood to attain, and they should not be surrendered without careful reflection. If the constitutional method of amendment is too difficult, the extra-constitutional method, useful though it has been and will still be, must not become too easy. If it does, the foundation of our government—respect for our constitution—will be sapped. It is said, and perhaps truly, that past generations should not control the actions of the present. But before we definitely conclude that our wisdom is so much greater than that of our forefathers, let us be quite sure that we are right. Above all, let not the Bar delude itself with fictions and official theories which only 'blink the facts.' Fearless analysis, not lazy acquiescence or unreasoning vituperation, was never more needed and seldom less practised. The Bar cannot act intelligently unless it first thinks clearly."

Constitutional Law of the United States as Moulded by Daniel Webster. Everitt P. Wheeler. Marshall has so absorbed the attention of periodical writers upon the "makers of the constitution" of late that it is refreshing to find a claimant for another candidate for similar honors. The article is very valuable for its review of the arguments of Mr. Webster and of great general interest.